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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,207	11/14/2006	Juntao Wang	HW25-4172	6631
23460 7590 07/20/2009 LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731			EXAMINER ANWAR, MOHAMMAD S	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 07/20/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/591,207

**Applicant(s)**

WANG ET AL.

**Examiner**

MOHAMMAD ANWAR

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4-8, 13-14 and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Owens et al. (U.S. Patent No. 7,315,510 B1).

**For claim 1**, Owens et al. disclose establishing a work path for transporting a service between a source node and a work destination node of the service in the Metropolitan Area Transport Network (see Figure 1, source Node (102), work destination node (112)); setting a node other than the work destination node as a protection destination node (see Figure 1 (15)); establishing a protection path between the source node and the protection destination node for protecting the service in the work path (see column 10 lines 33-44, protection and working path can be defined using path selection algorithm, see also Figure 1, Node 1, Node 5 and Node 15 can be a

protection path)); the source node detecting a failure state of links of the work path and the protection path and a failure state of a node in the links of the work path and the protection path (see column 4 lines 55-63); the work destination node and the protection destination node detecting respectively the failure of the links connecting themselves to a data device, if there is the failure, notifying the source node (see column 5 lines 35-42, using liveness messages to report failure to source node); and switching the data service in the work path to the protection path by the source node when the failure state of the link of the work path or the failure state of a node in the link is detected or a failure state notice of the work destination node is received (see column 4 lines 55-66).

**For claim 4**, Owens et al. disclose further comprising: when the source node detects that the failure of the work path has been eliminated or the source node receives a notice that the failure of the work path has been eliminated, switching the services from the protection path to the work path (see column 13 lines 45-51).

**For claim 5**, Owens et al. disclose further comprising: after the source node switches the work path to the protection path, the source node setting the protection path as the current work path, and setting the work path before the switching as the protection path (see column 13 lines 64-67 and column 14 lines 1-3).

**For claims 6, 13 and 14**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to the same data device (see column 11 lines 13-31, a label distribution protocol to send message to the devices via different hops and destination nodes).

**For claims 7, 17 and 18**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to different data devices which are connected with each other (see column 11 lines 55-66, MPLS scheme where different devices can talk to each other through different nodes).

**For claims 8 and 19**, Owens et al. disclose the step of notifying the source node comprises: the work destination node and the protection destination node notifying the source node by means of signaling after detecting a failure state of the link (see column 9 lines 1-7); and further comprising: the work destination node and the protection destination node notifying the source node by means of signaling after detecting a recovery from a failure state (see column 13 lines 58-62).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 9-11, 15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens et al. in view of Trudel et al. (U.S. Patent No. 7,450,497).

**For claim 2**, Owens et al. disclose the work path with the highest priority being switched to the protection path when the multiple work paths are out of work at the same time (see column 13 lines 5-7). Owens et al. disclose all the subject matter but fails to mention wherein, the step of switching comprises: one protection path providing a protection for multiple work paths. However Trudel et al from a similar field of endeavor disclose wherein, the step of switching comprises: one protection path providing a protection for multiple work paths (see column 4 lines 14-17). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Trudel et al. 1 for N protection scheme into Owens et al. protection scheme. The method can be implemented in the network configuration. The motivation of doing this is to protect data traffic in working path (see column 3 lines 4-5).

**For claims 9 and 20**, Owens et al. disclose all the subject matter but fails to mention wherein, the work destination node and the protection destination node adopt an confirmation mechanism when notifying the source node by means of signaling and keep on sending the failure state information to the source node until receiving the confirmation information from the source node. However Trudel et al. from a similar field of endeavor disclose wherein, the work destination node and the protection destination node adopt an confirmation mechanism when notifying the source node by means of signaling (see column 16 lines 10-25 where ACK/NACK is defined for confirmation mechanism), and keep on sending the failure state information to the source node until receiving the confirmation information from the source node (see column 16 line 19). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Trudel et al. signaling scheme into Owens et al. protection scheme. The method can be implemented in a signaling protocol. The motivation of doing this is to protect data traffic in working path (see column 3 lines 4-5).

**For claims 10 and 21**, Owens et al. disclose all the subject matter but fails to mention wherein the signaling comprises: Ethernet Operation Administrative and Maintenance (OAM) signaling and Multiprotocol Label Switching (MPLS) OAM signaling. However Trudel et al. from a similar field of endeavor disclose wherein the signaling comprises: Ethernet Operation Administrative and Maintenance (OAM) signaling and Multiprotocol Label Switching (MPLS) OAM signaling (see column 1 lines 20-24). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Trudel et al. signaling scheme into Owens et al.

protection scheme. The method can be implemented in a signaling protocol. The motivation of doing this is to protect data traffic in working path (see column 3 lines 4-5).

**For claim 11**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to the same data device (see column 11 lines 13-31, a label distribution protocol to send message to the devices via different hops and destination nodes).

**For claim 15**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to different data devices which are connected with each other (see column 11 lines 55-66, MPLS scheme where different devices can talk to each other through different nodes).

8. Claims 3, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable Owens et al. in view of Swinkels et al. (U.S. Patent No. 6,795,394 B1).

**For claim 3**, Owens et al. disclose all the subject matter but fails to mention further comprising: when the work path runs well, the source node transporting extra data services via the protection path, and when the work path is switched to the protection path, stopping the extra data services. However Swinkels et al. from a similar field of endeavor disclose further comprising: when the work path runs well, the source node transporting extra data services via the protection path (see column 5 lines 41-43), and when the work path is switched to the protection path, stopping the extra data services (see column 5 lines 49-54). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Swinkels et al. data scheme



into Owens et al. protection scheme. The method can be implemented in the network configuration. The motivation of doing this is to use idle protection bandwidth for extra traffic (see column 2 lines 35-36).

**For claim 12**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to the same data device (see column 11 lines 13-31, a label distribution protocol to send message to the devices via different hops and destination nodes)

**For claim 16**, Owens et al. disclose wherein the work destination node and the protection destination node are connected to different data devices which are connected with each other (see column 11 lines 55-66, MPLS scheme where different devices can talk to each other through different nodes).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD ANWAR whose telephone number is (571)270-5641. The examiner can normally be reached on Monday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derrick W. Ferris can be reached on 571-272-3123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MOHAMMAD ANWAR  
Examiner  
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